IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 10TH APRIL 2007 / 20TH CHAITHRA 1929

WP(C).No. 31646 of 2006(P)

PETITIONERS:
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1. C.T.KOCHU VARKEY, CHUNGATH HOUSE,
(EMPIRE), P.O.KOTTAPPADY, THRISSUR DISTRICT.

2. P.K.MOHAMMED BASHEER,
RESIDING AT SHERIS, POST CHAVAKKAD,
THRISSUR DISTRICT.

BY ADV. SRI.C.VALSALAN
SRI.K.RAKESH ROSHAN
SMT.THUSHARA.V

RESPONDENTS:
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1. THE SYNDICATE BANK,
GURUVAYOOR BRANCH, EAST NADA,
GURUVAYOOR, REP. BY ITS MANAGER.

2. THE AUTHORISED OFFICER,
SYNDICATE BANK, REGIONAL OFFICE,
ERNAKULAM.

3. MR.M.V.MURALIDHARAN,
MANAGING DIRECTOR, M/S.MURALI HOTELS & RESORTS
PVT. LTD., WEST NADA, GURUVAYOOR.

4. UNION OF INDIA, REP. BY SECRETARY,
MINISTRY OF FINANCE, NEW DELHI.

***5. THE CHIEF MANAGER,**
SYNDICATE BANK REGIONAL OFFICE,
PIONEER TOWERS, SHANMUGHAM ROAD,
ERNAKULAM.

***ADDL. R5 IS IMPLEADED AS PER ORDER IN IA NO. 17516/2006 DATED 19/12/2006.**

BY ADVS. SMT.A.SREEKALA, ADDL.CGSC
SRI.R.S.KALKURA FOR R2
SRI.G.SREEKUMAR (CHELUR) --R3

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 31646/2006 P

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE PETITION IN RCP NO. 28/00 OF RENT CONTROL COURT, CHAVAKKAD.

EXT.P2. COPY OF THE COUNTER STATEMENT IN RCP NO. 28/00.

EXT.P3. COPY OF THE RENT RECEIPT DT. 3/11/2006.

EXT.P4. COPY OF THE POSSESSION NOTICE DT. 6/11/2006 BY R2.

EXT.P5. COPY OF THE STATEMENT SUBMITTED BY P1.

EXT.P6. COPY OF THE STATEMENTSUBMITTED BY P2.

EXT.P7. COPY OF THE NOTICE BY R5.

EXT.P8. COPY OF THE NOTICE BY R5.

RESPONDENT'S EXHIBITS

EXT.R1A. COPY OF THE FINAL ORDER DT. 17/1/2005 IN OA NO. 77/04 ON THE FILE OF THE DEBT RECOVERY TRIBUNAL, ERNAKULAM.

EXT.R1B. COPY OF THE JUDGMENT DT. 7/3/2006 IN WPC NO. 36566/2005 OF THIS COURT.

True copy

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S.SIRI JAGAN, J

W.P.(C)NO.31646 of 2006

Dated this the 10th day of April, 2007

JUDGMENT

The tenants in a building which is a security interest under mortgage to the first respondent bank challenges proceedingis initiated by the bank under the Securitisation and Reconstruction of the Financial assets and Enforcement of Security Interest Act 2002(Act) on the ground that the petitioners can be evicted only in accordance with the provisions of the Kerala Buildings Lease and Rent Control Act. A Division Bench of this Court has already held that the Act will override the provisions of the Kerala Buildings Lease and Rent Control Act. In view of the said Division Bench decision, this writ petition itself is not maintainable and accordingly, the same is dismissed.

S.SIRI JAGAN, JUDGE

CSS